IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

MONDAY, THE THIRTY FIRST DAY OF JANUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MRS. JUSTICE T.MEENA KUMARI

and
THE HON'BLE MR JUSTICE S.ANANDA REDDY

WRIT APPEAL NO : 2124 of 2004

(Writ Appeal under Clause 15 of the Letters Patent against the Order dated 04/11/2004 in WP NO : 1205 OF 1995 on the file of the High Court.)

Between:

P. Satyanarayana, S/o. Pothuraju, and Parvathamma,
Occ: Clerk, Hindustan Zink Limited, Visakhapatnam.

..... APPELLANT

AND

1 The Sub-Collector, Paderu, Visakhapatnam District.
2 The Mandal Revenue Officer, Chinthapally Mandal, Visakhapatnam District.
3 The General Manager, Hindustan Zink Limited, Visakhapatnam District.

.....RESPONDENTS

(Respondent Nos. 1 and 2 are not necessary parties in the writ appeal)

Counsel for the Appellant : MR.S.PRADEEP KUMAR

Counsel for Respondent Nos. 1 & 2 : GOVERNMENT PLEADER FOR REVENUE

Counsel for Respondent No.3: MR.K. SRINIVASA MURTHY

The Court at the stage of admission, made the following ORDER: (PER SAR,J)

This appeal is filed by the appellant/writ petitioner who is an employee aggrieved by the action of the 3rd respondent/employer in issuing a charge sheet alleging that the appellant/writ petitioner has produced a false caste certificate stating that he belongs to 'Bhagata' community which comes under Scheduled Tribe community though he did not belongs to that community but belongs to 'Sali' which is a Backward Community. The said charge sheet was assailed before this Court by way of filing a writ petition. The learned single Judge of this Court disposed of the writ petition observing that all the things that are urged before this Court can as well be stated before the authority, who issued the charge sheet.

At the time of hearing, learned counsel for the appellant/writ petitioner contended that by virtue of the provisions of the Andhra Pradesh (Scheduled Castes, Scheduled Tribes and Backward Classes) Regulation of Issue of Community Certificates Act, 1993 (Act 16 of 1993) (for short '**the Act'**), the power to cancel the caste certificate on the ground that a person belongs to a particular community is exclusively conferred on the District Collector of the District to which the person belongs to and no other authority is entitled to conduct an enquiry with reference to

the falsity or otherwise of the community certificate. As per Rule 21 of the Rules framed under the said Act, the Community Certificate issued by the Competent Authority prior to the commencement of these Rules should be treated as a valid certificate. Therefore, the learned counsel contended that in view of the above rule position, the 3rd respondent/employer is not entitled either to charge sheet the appellant/writ petitioner or to proceed with the enquiry and therefore, the charge sheet is liable to be quashed.

Learned counsel appearing for the 3rd respondent/employer however, sought to contend by referring to the contents of the charge sheet that the charge sheet is only an intimation to the appellant/writ petitioner to proceed with the enquiry as to his claim that he belongs to the Scheduled Tribe community and that the said charge sheet is based on the enquiry that was conducted by the Mandal Revenue Officer, Chintapally and the Sub-Collector, Paderu which revealed that the appellant/writ petitioner does not belong to the Scheduled Tribe community and that the production of false certificate amounts to serious misconduct as per the Certified Standing Orders of the 3rd respondent/employer and, therefore, proposed to take action.

Learned counsel for the respondent/employer, at the time of hearing, represented that if sufficient material is placed before the 3rd respondent/employer, the employer may drop the proceedings or take appropriate steps and, if necessary, refer the matter to the concerned authority to conduct enquiry.

Heard both sides and considered the material on record.

Admittedly, the appellant/writ petitioner claimed that he belongs to Scheduled Tribe community, in support of which a certificate issued as early as on 2.2.1976 was produced, basing on which, he was provided employment by the 3rd respondent/employer. Subsequently, basing on certain information, the 3rd respondent/employer has issued charge sheet against the appellant/writ petitioner alleging that he had produced false caste certificate, which amounts to serious misconduct. But, as already referred and relied upon by the learned counsel for the appellant/writ petitioner, when once the caste certificate is issued by the Competent Authority, it cannot be cancelled except by the authority competent who is specified under Section 5 of the Act. Under the said section, it is only the District Collector of

the District who is entitled to conduct necessary enquiry and cancel the certificate, if found false, after the enquiry. Further as per Rule 21, a caste certificate once issued is valid unless it is cancelled by the Competent Authority. Therefore, the 3rd respondent/employer is not entitled to initiate any proceedings including disciplinary proceedings unless the caste certificate produced by the appellant/writ petitioner, which was issued by the competent authority is cancelled by the competent authority after conducting necessary enquiry.

Under the above circumstances, the charge sheet issued by the 3rd respondent/employer is clearly without jurisdiction. Therefore, the same is quashed. However, it is made clear, if the 3rd respondent/employer proposes to take action on the information already available, it can do so, by referring the matter for enquiry to the appropriate authority having jurisdiction to conduct enquiry with reference to the social status of the appellant/writ petitioner.

It is represented that though the appellant/writ petitioner has been continuing in service, he was not paid full salary. Therefore, the 3rd respondent/employer is directed to release the salary to the appellant/writ petitioner to which he is entitled to, as per the Rules. If any salary or part of the salary is payable, the same shall be paid within six weeks from the date of receipt of a copy of this order.

The order under appeal is accordingly set aside and the writ appeal is allowed.

(T.MEENA KUMARI, J)

(S.ANANDA REDDY, J)

31.01.2005

bsv/lvl

TO

1 The Sub-Collector, Paderu, Visakhapatnam District.
2 The Mandal Revenue Officer, Chinthapally Mandal, Visakhapatnam District.
3 The General Manager, Hindustan Zink Limited, Visakhapatnam District.

4 Two CCs to the Government Pleader for Revenue, High Court of A.P.,

Hyderabad (Out)

5 Two CD copies